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No. 90-370

FILED

OCT 5 1990

JOSEPH F. SPANIOL, JR.  
CLERK

In The  
**Supreme Court of the United States**  
October Term, 1990

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REPUBLIC NATIONAL BANK OF MIAMI,  
*Petitioner,*  
v.

FIDELITY AND DEPOSIT COMPANY OF  
MARYLAND,  
*Respondent.*

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**Petition For Writ Of Certiorari To The United States  
Court Of Appeals For The Eleventh Circuit**

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**OPPOSITION OF RESPONDENT TO MOTION FOR  
LEAVE TO FILE BRIEF AMICUS CURIAE**

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## OPPOSITION OF RESPONDENT TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Respondent Fidelity and Deposit Company of Maryland<sup>1</sup> (F&D) files this objection pursuant to Sup. Ct. R. 37.4 to apprise the Court of the reason why it refused consent to the filing of a brief *amicus curiae* and to set forth its reason for opposing the instant motion.

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### REASON FOR REFUSING CONSENT

F&D stated its reason for refusing consent in a letter dated September 21, 1990, sent by James F. Crowder, Jr., F&D's counsel of record, in response to a letter dated September 13, 1990, sent to him by Michael F. Crotty, Esq., one of the attorneys making the instant motion on behalf of American Bankers Association.

The last paragraph of Mr. Crowder's letter, dated September 21, 1990, read as follows:

"Your letter of September 13, 1990 gives no indication of the 'relevant matter . . . that has not already been brought to [the Court's] attention by the parties . . . ' that an *amicus* brief by the American Bankers Association would provide to the Court. We have reviewed the *amicus* brief filed on behalf of the American Bankers Association in the Eleventh Circuit, and it seems to us that the points and arguments made in that brief are fully covered by Republic's brief in support of its petition for a writ of certiorari. Accordingly, we believe we are constrained by

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<sup>1</sup> See footnote 1 in Respondent's Brief in Opposition for list required by Sup. Ct. R. 29.1.

the second sentence of Rule 37.1 to withhold our consent to the American Bankers Association filing an amicus brief."

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### REASON FOR OPPOSING THIS MOTION

Having now had the opportunity to see the proposed brief *amicus curiae* submitted with the instant motion, F&D remains of the view that the points and arguments made in that brief are fully covered in the Petitioner's brief and that, accordingly, F&D is constrained by the second sentence of Rule 37.1 to oppose the instant motion.

Respectfully submitted,

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